IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 4TH APRIL 2007 / 14TH CHAITHRA 1929

WP(C).No. 11818 of 2007(F)

AGAINST THE ORDER IN CRMP 1524/07 IN
CRMP.1525/2007 of C.J.M.,KOLLAM

.....

PETITIONER:

PROF.SUSEELA, SREEPADMAM,
EAST OF SARADA MUTT, COLLEGE JUNCTION,
KOLLAM.

BY ADV. SRI.M.BALAGOVINDAN

RESPONDENTS:

B.L.PRASANTH, RESIDING AT N.G.BHAVAN,
PULIMOOTTIL, MUNDAKKAL, MUNDAKKAL VILLAGE,
KOLLAM.

BY GOVERNMENT PLEADER SRI.GIKKU JACOB

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 04/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

R.BASANT, J

W.P.C.No.11818 of 2007

Dated this the 4th day of April, 2007

JUDGMENT

The grievance of the petitioner is against an order passed in an application under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as `the D.V Act'). After hearing both parties, the learned Magistrate who had initially granted an interim order under Section 23 of the D.V Act had proceeded to dismiss the application under Section 12 of the D.V Act. The petitioner has rushed to this Court with this petition under Article 227 of the Constitution of India.

2. The petitioner has a right of appeal under Section 29 of the D.V Act before the Sessions Court and I find absolutely no justification in the attempt of the petitioner to invoke the constitutional supervisory jurisdiction under Article 227 to challenge the impugned order. The learned counsel for the petitioner attempts to pick holes in the impugned order by saying that statutory provisions have not been adverted to and complied with by the court. I have gone through the impugned order. I find no such vice vitiating the impugned order, which can persuade this Court to invoke its extraordinary constitutional jurisdiction under Article 227 of the Constitution in favour of the petitioner, who has not chosen to invoke

the statutory right of appeal under Section 29 of the D.V Act. The learned counsel for the petitioner also raises a contention that the definition of shared household under Section 2(s) of the D.V Act has been satisfied by the case of the petitioner in this case and that the learned Magistrate erred in holding it to be otherwise. It is for the petitioner to raise all his contention in an appropriate appeal to be instituted under Section 29 of the D.V Act.

3. This Writ Petition is, in these circumstances, dismissed. Return the copy of the impugned order to the learned counsel for the petitioner. I may hasten to observe that I have only chosen to hold that the jurisdiction under Article 227 of the Constitution need not be invoked and I have not intended to express any opinion on merits of the acceptability of the order.

(R.BASANT, JUDGE)

rtr/-